

# EXHIBIT 1

DEPOSITION OF OFFICER MICHELLE HALL

IN THE UNITED STATES DISTRICT COURT  
IN AND FOR THE NORTHERN DISTRICT OF CALIFORNIA  
--oOo--

ROY NELSON III, Successor-  
in-Interest to Decedent ROY  
NELSON; ORENELL STEVENS,  
individually,

Plaintiffs,

vs.

CASE NO.:  
3:16-cv-7222

CITY OF HAYWARD, a municipal  
corporation; MICHELLE HALL, in her  
individual and official capacity  
as Police Officer for the CITY OF  
HAYWARD; NATHANAEL SHANNON, in his  
individual and official capacity  
as Police Officer for the CITY OF  
HAYWARD; MATTHEW MCCREA, in his  
individual and official capacity  
as Police Sergeant for the CITY OF  
HAYWARD; JOHN PADAVANA, in his  
individual and official capacity  
as Police Officer for the CITY OF  
HAYWARD and DOES 1-50, inclusive,  
individually and in their official  
capacity as police officers for  
the City of Hayward,

CERTIFIED COPY

Defendants.

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DEPOSITION OF OFFICER MICHELLE HALL  
MONDAY, DECEMBER 4, 2017

(CONFIDENTIAL Page 14, Line 24  
to Page 17, Line 1  
ARE BOUND UNDER SEPARATE COVER)

REPORTED BY: KELLY L. MCKISSACK, CSR #13430

1 shadow phase. And at the time I was on my fourth week  
2 of phase four of training.

3 Q. Okay. And during phase four were you acting  
4 as a solo unit or were you riding with your training  
5 officer?

6 A. I was riding with my training officer.

7 Q. Okay. And who was your field training officer  
8 on that date?

9 A. Officer Shannon.

10 Q. And just to make sure, that would be the  
11 Officer Shannon who is also a part of this litigation;  
12 is that correct?

13 A. Yes.

14 Q. And is it your understanding that you were  
15 supposed to be familiar with Hayward Police Department  
16 policies?

17 A. Yes.

18 Q. Is it your understanding that you're supposed  
19 to comply with Hayward Police Department policies while  
20 on duty?

21 A. Yes.

22 Q. Okay. This I think we would deem the  
23 confidential portion.

24 \* This begins a confidential portion of the deposition.\*  
25

1 \* This ends the confidential portion of the deposition.\*

2 BY MS. NOLD: Q. So I want to talk about the date of  
3 the incident. Once again that will be December 19,  
4 2015. And I believe earlier you indicating that you  
5 were riding with Officer Shannon on that day; is that  
6 correct?

7 A. Yes.

8 Q. And I'm assuming it was the only two of you in  
9 the car, correct?

10 A. Yes.

11 Q. Do you recall when you started your shift that  
12 day?

13 A. I began my shift at 1800 hours, which is  
14 6:00 p.m. Friday.

15 Q. And were these -- what type of shifts were  
16 they, eight-hour, ten-hour, twelve hours?

17 A. We're assigned 12-and-a-half-hour shifts.

18 Q. And on that date do you recall being  
19 dispatched to the Ironwood address where you ultimately  
20 met up with Mr. Roy Nelson?

21 A. Yes.

22 Q. Do you recall what type of call you were  
23 responding to?

24 A. I believe the initial call was dispatched as a  
25 5150 or some sort of family disturbance.

1 Q. And do you recall if you were the first  
2 responding officer?

3 A. I initially wasn't dispatched because I was on  
4 my lunch. And so another officer was dispatched first.

5 Q. And do you know who that officer was?

6 A. Officer Kawada and Officer McKee.

7 Q. And at some point were you assigned to also go  
8 attend to that call?

9 A. Yes, because I understood that the call was in  
10 my assigned area of patrol. So I left the station to go  
11 to the call.

12 Q. And so when you left to go to the call you  
13 were with Officer Shannon at that time?

14 A. Yes.

15 Q. And I'm sorry. For clarity, is he Officer or  
16 Sergeant Shannon?

17 A. Officer.

18 Q. Okay. And when you arrived at the -- when you  
19 arrived at the home and met with Mr. Nelson, do you  
20 recall how much time had elapsed from the time of the  
21 call until the time you arrived?

22 A. I would estimate it was about 10 to  
23 15 minutes.

24 Q. And when you first arrived do you recall  
25 seeing Mr. Roy Nelson?

1 MR. ROLLAN: Objection. Vague as to time. Is  
2 it right when she got there or soon thereafter or --

3 BY MS. NOLD: Q. But you can still answer if you  
4 understand.

5 A. I'm sorry. I just -- repeat. Repeat.

6 MR. ROLLAN: You want her to repeat the  
7 question?

8 MS. NOLD: Could you read the question back,  
9 please.

10 (Whereupon, the question was read by the  
11 court reporter.)

12 THE WITNESS: Yes.

13 BY MS. NOLD: Q. And where was Mr. Nelson located when  
14 you first saw him?

15 A. He was exiting the residence.

16 Q. And was he exiting the front door or, like,  
17 the gated area? Do you recall?

18 A. I recall the entrance to be on the side of the  
19 house. I don't recall any entrance directly on the  
20 front.

21 Q. And when you first saw Mr. Nelson did you  
22 recognize him from any prior contacts?

23 A. No.

24 Q. So, to your knowledge, you had never seen  
25 Mr. Nelson before?

1 A. No.

2 Q. And when you first saw Mr. Nelson can you  
3 describe his physical stature?

4 A. He was approximately 6'4, over 300 pounds.

5 Q. Prior to arriving at the residence, did you  
6 receive any information about Mr. Nelson? Any prior  
7 contacts from Hayward, anything that would be, I guess,  
8 considered, like, an officer safety statement? Anything  
9 like that?

10 A. Not prior to me arriving there.

11 Q. It sounds like at some point you did receive  
12 some information about Mr. Nelson?

13 A. Yes. During my interaction with Mr. Nelson, I  
14 received information from Officer McKee.

15 Q. What did Officer McKee tell you about  
16 Mr. Nelson?

17 A. Officer McKee told me that Mr. Nelson -- I  
18 believe he was either on probation or parole or both.  
19 And that he had several contacts with Mr. Nelson in the  
20 past. He remembered Mr. Nelson from selling drugs and  
21 that he threw another officer off of a second story  
22 building.

23 Q. Okay. And at the time when Officer McKee  
24 provided you that information about Mr. Nelson had you  
25 already made contact with Mr. Nelson?

1 A. Yes.

2 Q. And at the time Officer McKee provided you the  
3 information about Mr. Nelson's, I'll say his past,  
4 did -- where was Mr. Nelson located?

5 A. In the back --

6 Q. Go ahead.

7 A. In the backseat of my patrol car.

8 Q. Okay. Prior to the date of the incident, had  
9 you ever responded to a call for a 5150 before?

10 A. Yes.

11 Q. Approximately how many times?

12 A. I can't recall.

13 Q. Okay. More than five times?

14 A. I was on field training at the time. So I'd  
15 only be on for about 18 weeks.

16 Q. Okay.

17 A. My estimate would be at least five times.

18 Q. Okay. What is your understanding of what a  
19 5150 detention is?

20 A. 5150 detention would be evaluating someone for  
21 a 5150 hold, which means that the person is -- can be a  
22 combination of inebriation, use of narcotics or  
23 restricted drugs or a mental illness, and they are a  
24 danger to themselves, others or are greatly -- and/or  
25 greatly disabled.



1 Q. And prior to the incident with Mr. Nelson have  
2 you ever -- had you ever done -- performed an evaluation  
3 for a 5150 before?

4 A. Yes.

5 Q. And did you perform the evaluation for the  
6 5150 for Mr. Nelson?

7 A. Initially when I arrived, Officer McKee let me  
8 know that Mr. Nelson needed to go see the doctor for  
9 what I understood was the schizophrenic tendencies. So  
10 I initially used the knowledge from the call and what  
11 Officer McKee was telling me to request the Code 2  
12 ambulance for a 5150. And my intention was to gather  
13 more information from the original reporting party.

14 Q. Okay. And did you ultimately end up speaking  
15 to the reporting party?

16 A. Yes.

17 Q. And I'll represent that the reporting party is  
18 Mrs. Patsy Nelson Taft. Is that your understanding?

19 A. Yes.

20 Q. And did you end up speaking to Patsy before  
21 you contacted Mr. Nelson or after?

22 A. Patsy was present while I was talking to  
23 Mr. Nelson. And she was telling me that he had  
24 schizophrenic tendencies and he needed to go back to  
25 John George.

1 Q. Okay. Was it your understanding from Patsy  
2 that Mr. Nelson had previously been at John George  
3 Hospital?

4 A. From my understanding of what she was saying,  
5 yes.

6 Q. Okay. And what do you -- what else do you  
7 recall Ms. Nelson telling you about Mr. Nelson's mental  
8 health condition?

9 A. I remember she said Mr. Nelson does not live  
10 there. And that he had just been released from John  
11 George. She did not know why he had been released as  
12 he -- because of his behavior was not acting in a manner  
13 that he had been treated. She said that she ended up  
14 letting him stay there and letting him get cleaned up  
15 because his -- he was disheveled when he arrived at her  
16 house.

17 She said he was sleeping on the couch in the  
18 middle of the night and started yelling, saying that  
19 their 23-year-old son had been kidnapped and that there  
20 were people on the roof. Which, according to Patsy,  
21 neither of those things were true.

22 Q. Okay. So at that point did you -- I  
23 understand you're not a doctor. Did you have a reason  
24 to believe that Mr. Nelson was having some sort of  
25 active mental health episode?

1 A. Can you rephrase.

2 Q. Sure. When Ms. Nelson told you that  
3 Roy Nelson was -- thought that their son had been  
4 kidnapped and that there was people on the roof, did you  
5 have reason to believe that -- that Mr. Nelson was  
6 having hallucinations or was imagining those things  
7 happening?

8 MR. ROLLAN: Objection. Calls for speculation  
9 and vague as to time. Is it when she was -- is the  
10 question was he hallucinating at the time that she --  
11 that Officer Hall encountered Mr. Nelson or prior to --  
12 prior to that?

13 BY MS. NOLD: Q. In talking to Ms. Nelson, did you have  
14 reason to believe that he was having some sort of active  
15 hallucinations or had recently been having some active  
16 hallucinations?

17 A. I -- from my understanding it was recent  
18 hallucinations.

19 Q. Okay. And at some point you spoke with Mr. --  
20 did you speak to Mr. Nelson directly?

21 A. Yes.

22 Q. Okay. And what did -- what did Mr. Nelson say  
23 to you? What was the conversation with Mr. Nelson?

24 A. My initial contact with him, with Mr. Nelson,  
25 was when he was walking out of the house and he was

1 looking around as if he was looking for people or -- I  
2 don't know what he was looking for. But he was looking  
3 around and he seemed disoriented, not focused on what I  
4 was saying. He did tell me his name. And he was able  
5 to understand when I told him to take his hands out of  
6 his pockets.

7 And then I walked him over to my patrol car.  
8 And once he was in the backseat of my patrol car I asked  
9 him if he wanted to hurt himself. And what I  
10 remembered, he said yes. I asked him if he wanted to  
11 hurt other people. He said yes. And then he said no.  
12 So from his behavior and what he had responded I  
13 didn't -- I wasn't sure if he understood what I was  
14 saying. So I repeated the question, did you want -- do  
15 you want to hurt yourself and he said no.

16 Q. Okay. And at that point did you consider  
17 Mr. Nelson to be either a danger to himself, a danger to  
18 other or gravely disabled within the confines of the  
19 5150?

20 A. Yes.

21 Q. And which of those things? The gravely  
22 disabled, danger to himself or danger to other, which or  
23 how many of those things did you think he fit the  
24 category of?

25 A. Danger to himself and gravely disabled.

1 Q. Okay. And at some point you had completed the  
2 5150 form, correct?

3 A. Yes.

4 Q. Okay. And where were you when you completed  
5 that form?

6 A. I was primarily in the front seat of my patrol  
7 car.

8 Q. And while you were completing that form were  
9 you having any conversations with Mr. Nelson?

10 A. Yes. When I was asking him the questions I  
11 was filling out the form.

12 Q. Okay. And when you were doing that was  
13 Mr. Nelson located in the car with you?

14 A. Yes.

15 Q. In the backseat of the car?

16 A. Yes.

17 Q. And at the time when you first contacted  
18 Mr. Nelson and determined that he was -- strike the  
19 question.

20 When you first contacted Mr. Nelson, at some  
21 point you made the determination that he was going to be  
22 placed on a 5150 hold, correct?

23 A. Yes.

24 Q. Okay. What were the next steps in your mind?  
25 What was going to happen after he was placed on the 5150

1 hold?

2 A. Well, I called for the Code 2 ambulance within  
3 probably two to three minutes of arriving. So I was  
4 expecting them to arrive typically no more than 10 to  
5 20 minutes from when I initially called it. From there  
6 the paramedics would transport Mr. Nelson to John George  
7 Psychiatric Hospital.

8 Q. Okay. And would you typically fill out the  
9 5150 form, provide it to the ambulance, and then they  
10 would make the transport?

11 A. Yes.

12 Q. And is that determined by policy, or is  
13 there -- is there any wiggle room in that? For example,  
14 would you have been permitted to drive Mr. Nelson to the  
15 hospital yourself? Or do you require -- is the policy  
16 required that he be taken by ambulance?

17 A. I'm unaware of any policy. I believe that's  
18 our procedure. I was never aware of any of us  
19 personally taking a person to John George.

20 Q. So during the time that you've been working  
21 for the City of Hayward you've never personally  
22 transported somebody to John George for a 5150 hold,  
23 correct?

24 A. During -- from up until that time I would say  
25 I have not taken anyone to John George. After that, I'm

1 not sure.

2 Q. Okay. So you're saying today you don't recall  
3 whether you've ever taken somebody to John George  
4 personally for a mental health hold or transporting --  
5 strike that.

6 Up to today's date you don't recall whether  
7 you've ever transported somebody to John George for a  
8 5150 hold?

9 A. Like I said, I can't recall after the incident  
10 if I have or not.

11 Q. Is there any particular reason why you  
12 wouldn't be able to recall the information from the last  
13 two years of your employment?

14 A. I recall another situation where the  
15 paramedics were having an extended wait. And I recall a  
16 supervisor suggesting a unit transport. I believe it  
17 was another unit. I don't recall personally  
18 transporting that person, but I was at the call.

19 Q. To your knowledge, is there anything that  
20 would prohibit you from transporting a person on a 5150  
21 hold to the hospital as opposed to having them go in an  
22 ambulance?

23 A. I'm sorry. Repeat that.

24 Q. Sure. Is there anything, as far as you know  
25 policy-wise or procedure-wise, that would prevent it --

1 would prevent you as an officer from transporting  
2 somebody to John George for a 5150 hold as opposed to  
3 having an ambulance come and transport them?

4 A. Policy-wise I don't know of anything.

5 Q. And how did Mr. Nelson end up in the back of  
6 your patrol car?

7 A. When I was initially talking to him and I had  
8 asked him to come with me over to my patrol car. And  
9 when he walked up to the car he actually pulled the  
10 handle on the rear passenger door, but it was locked.

11 Q. Okay. Would you have been considered the lead  
12 officer on that call at that point?

13 A. Well, based on me being assigned to that area  
14 and being on scene, yes. I was primary.

15 Q. Okay. And when you asked Mr. Nelson to walk  
16 to your car did he go with you voluntarily?

17 A. Yes.

18 Q. And at that point was Mr. Nelson being led,  
19 for example, with a hand on his arm or anything like  
20 that, or was he walking under his own direction?

21 A. I don't recall touching him. I -- I told him  
22 let's go over to my car. And from what I remember he  
23 walked over on his own willing.

24 Q. Did Mr. Nelson verbally object to being walked  
25 to your car?



1 A. No.

2 Q. And did Mr. Nelson verbally object to -- to  
3 the intention of -- strike that.

4 Did you tell Mr. Nelson that you intended to  
5 take him or have him taken to the hospital for a mental  
6 health evaluation?

7 A. Repeat that.

8 Q. Could you please repeat the question.

9 (Whereupon, the question was read by the  
10 court reporter.)

11 THE WITNESS: Yes.

12 BY MS. NOLD: Q. And this is -- just go back a little  
13 bit regarding the 5150. Can you explain the distinction  
14 between a 5150 detention and a 5150 custodial arrest?

15 A. We use the term 5150 hold. So I'm not sure if  
16 that's what you're referring to when you say custodial  
17 arrest.

18 Q. Okay. So is it fair to say that you can't  
19 explain the difference between a 5150 detention and a  
20 5150 custodial arrest?

21 A. No. So a 5150 detention, I don't even use  
22 those terms. But I would say a 5150 evaluation and  
23 persons being evaluated for a hold, they're placed on a  
24 hold. Then they are in our care and custody. Only time  
25 there would be an arrest along with the 5150 is if

1 you're charging them with a criminal case as well.

2 Q. And in Mr. Nelson's case, was Mr. Nelson  
3 suspected of any sort of crime or infraction at the time  
4 when you came in contact with him?

5 A. No.

6 Q. And you indicated that Mr. Nelson walked up to  
7 the car and attempted to open the door; is that correct?

8 A. Yes.

9 Q. And in response to Mr. Nelson trying to open  
10 the door did you unlock the door?

11 A. Not at that time.

12 Q. Okay. What happened next after he tried to  
13 open the door?

14 A. I asked Mr. Nelson to put his hands on the  
15 car. And I advised him that I just wanted to check him.  
16 And I wanted to make sure he didn't have any weapons  
17 prior to going in my patrol car.

18 Q. Okay. And after that did you pat search  
19 Mr. Nelson to check to see if he had any weapons?

20 A. Yes.

21 Q. And did Mr. Nelson have any weapons or any  
22 sort of illegal paraphernalia or anything like that on  
23 his person?

24 A. I didn't search him for paraphernalia, but he  
25 didn't have any weapons.

1 Q. Okay. And then what happened next?

2 A. I unlocked my patrol car, opened the door and  
3 had Mr. -- I asked Mr. Nelson to take a seat.

4 Q. And what were you having Mr. Nelson sit down  
5 for?

6 A. I was placing him in my car until the  
7 paramedics arrived.

8 Q. And did you handcuff Mr. Nelson?

9 A. No.

10 Q. And why didn't you handcuff Mr. Nelson?

11 A. Based on his demeanor, even though he was  
12 disoriented, he wasn't aggressive towards me or anyone  
13 else. And I didn't have any reason to believe that he  
14 would be violent to anyone.

15 Q. And what's your understanding of when you're  
16 supposed to handcuff somebody in order to be in  
17 compliance with your Hayward Police Department's  
18 handcuffing policy?

19 A. There's no requirement that I have to  
20 handcuff. In this instance there's no requirement.  
21 It's based on whatever the officers feel for the  
22 situation.

23 Q. Okay. So it was your understanding that for  
24 a -- for example, Mr. Nelson, a 300-something pound,  
25 mentally ill, hallucinating person you weren't required

1 to handcuff him, correct?

2 A. Correct.

3 Q. And are there certain categories of people or  
4 situations that require a person to be handcuffed?

5 MR. ROLLAN: Objection. Vague.

6 BY MS. NOLD: Q. You still need to answer even if he  
7 says it's vague, unless you just don't understand the  
8 question.

9 A. Can I ask you to rephrase it.

10 Q. Sure. You said that under the circumstances  
11 that Mr. Nelson -- there was no requirement to handcuff  
12 him. Under what circumstances would you be required to  
13 handcuff somebody?

14 A. Again, I don't think there is any requirement.  
15 But had he been aggressive or had he hurt Patsy or  
16 anyone else in the house, then at that point I would  
17 have handcuffed him. But based on his demeanor and that  
18 he is mentally ill, I didn't want to put the handcuffs  
19 on him and elevate or escalate the situation more than  
20 necessary.

21 Q. So you felt like handcuffing Mr. Nelson at the  
22 time, would it be fair to say you felt like it might  
23 agitate him or make him -- worsen his mental condition?

24 A. Yes.

25 Q. And just so I'm clear, as far as you know, is

1 there any sort of distinct policy related to handcuffing  
2 or not handcuffing people on 5150 holds?

3 A. We do have a handcuffing policy.

4 Q. Is there anything in the policy that dictates,  
5 gives you direction on handcuffing or not handcuffing  
6 people on a mental health holds specifically?

7 A. I can't recall specifically.

8 Q. Okay. Is that one of the policies that you  
9 reviewed prior to your deposition?

10 A. Yes.

11 Q. So you had Mr. Nelson in the backseat of the  
12 car. At that point was Mr. Nelson fully in the backseat  
13 or was he -- did he have his feet on the ground sitting  
14 on the seat? Can you explain how he was located in the  
15 car?

16 A. He was -- his full body was inside the car.  
17 And I think his foot might have been near the doorway.  
18 So I told him to put his feet inside the car.

19 Q. And at that point was the door still open?

20 A. The door was open up until he put his feet in  
21 the car, and then I closed it.

22 Q. And at that point is that when you got into  
23 the car and began working on your paperwork?

24 A. Yes. I obtained the form from my trunk, and I  
25 went back around. And from what I remember I was in the

1 car with him. And then I also went to speak with Patsy.

2 Q. And at that point was Mr. Nelson free to go?

3 A. No.

4 Q. At that point was Mr. Nelson being detained?

5 A. He was on a 5150 hold. He wasn't -- I  
6 wouldn't use the word detained for a 5150 hold.

7 Q. Okay. So Mr. Nelson was not free to go, but  
8 you didn't consider him to be in a detention; is that  
9 correct?

10 MR. ROLLAN: If you can answer that question.

11 THE WITNESS: He's not free to go. He's on a  
12 5150 hold. If you consider that a detention, then yes.  
13 He was detained.

14 BY MS. NOLD: Q. And are you familiar with any specific  
15 City of Hayward Police Department policies related to  
16 contact with mentally ill persons?

17 A. I don't know of a specific policy. I know  
18 that our policies include information about mentally  
19 ill.

20 Q. Okay. Did you, either in the academy or  
21 working for the City of Hayward, ever receive any  
22 training on interacting with persons with mental health  
23 problems?

24 A. Yes.

25 Q. And if you can explain what you recall as far

1 as the guidelines of, I guess, best practices in dealing  
2 with people with mental health problems. Do you recall?

3 A. Well, primarily officer safety and safety of  
4 the subject comes first. So irregardless if they're  
5 mentally ill or not, if they have a weapon or --

6 Q. Coaching isn't working on that one, Mr. @Nor.

7 Have you ever been -- received any training  
8 with the City of Hayward or in your police academy  
9 training where you were advised that people with mental  
10 health problems may have -- take a longer time to be  
11 able to comply with orders?

12 A. I'm sorry. I don't know what the comment was  
13 about. So if you can clarify.

14 MS. NOLD: Oh, it wasn't directed at you.  
15 Just as far as your attorney's not allowed while you're  
16 in the middle of a question to --

17 MR. ROLLAN: Oh, I'm not coaching. I was  
18 going --

19 MS. NOLD: Well, you actually wrote something,  
20 went like this and then you went like this (indicating.)

21 MR. ROLLAN: No, I didn't.

22 MS. NOLD: Okay. That's fine. Okay.

23 MR. ROLLAN: If it appeared that way, I wasn't  
24 doing that.

25 MS. NOLD: Okay.

1 MR. ROLLAN: I was going back to the previous  
2 page.

3 MS. NOLD: Okay. I'll take your  
4 representations as an officer of the court that that's  
5 not what you were doing.

6 Q. Did you want to -- did you want to -- did you  
7 feel like that answer was complete or were you still --  
8 did you still have anything to add to that?

9 A. No. Your comment kind of interrupted what I  
10 was thinking. So I'm going to have to ask you to  
11 repeat.

12 MS. NOLD: Okay. I'll have her read back the  
13 question. Okay. If you can read back the question.

14 (Whereupon, the question was read by the  
15 court reporter.)

16 THE WITNESS: Yes.

17 BY MS. NOLD: Q. And to your knowledge does the City of  
18 Hayward have a policy related to the Americans with  
19 Disabilities Act?

20 A. I don't recall.

21 Q. Are you familiar with the Americans with  
22 Disabilities Act?

23 A. I've heard of it.

24 Q. Do you -- but, to your knowledge, have you  
25 ever received any training related to your requirements



1 for compliance with the Americans with Disabilities Act  
2 while acting in the capacity of a police officer?

3 A. I don't recall it ever being addressed to us,  
4 any reference to the ADA.

5 Q. Okay. So Mr. Nelson is in the backseat of  
6 your patrol car. You said you closed the -- closed the  
7 door. What happened next?

8 A. As I was interviewing him, I did roll the  
9 window down at least two to three inches just so he had  
10 air circulating in the backseat. And after I had spoke  
11 with Mr. Nelson he kept repeating he didn't want the  
12 ambulance, and he didn't want help.

13 And I proceeded to get -- Officer Kawada was  
14 speaking with Patsy and getting information from her.  
15 So in her presence he advised me what Patsy told him.  
16 And then I asked her a couple questions for  
17 clarification.

18 Q. And do you recall what that conversation was  
19 with Patsy, that additional information?

20 A. It was, again, about the -- his son --  
21 Mr. Nelson's son being kidnapped, kept hearing noises.  
22 Patsy had also mentioned Mr. Nelson had come -- come to  
23 her house from John George and -- in a taxi, and he left  
24 all his clean clothing and medications in the taxi. And  
25 told the taxicab driver to keep it as collateral.

1           So that part was something else I felt she had  
2       witnessed as him being gravely disabled. Not able to  
3       care for himself where he's leaving his medications and  
4       means of clothing in a car.

5           Q.    Okay. So when you talked to Ms. Nelson you  
6       had additional information to help in your evaluation  
7       for the 5150; is that accurate?

8           A.    Yes.

9           Q.    You indicated that you had rolled the windows  
10      down for Mr. Nelson. Did Mr. Nelson make any request  
11      for you to roll the windows down, or was he making any  
12      complaints that prompted you to do that?

13          A.    Not at that time. I -- I just typically do  
14      that if I have someone in the backseat of my car. That  
15      way there's -- there's always air circulating. But I  
16      did notice that he was sweating profusely as he kept  
17      saying he didn't want to go or he didn't want the  
18      ambulance.

19          Q.    Okay. And when you're saying he was sweating  
20      profusely, did -- did you notice that prior to  
21      Mr. Nelson getting in the car or subsequently?

22          A.    Shortly after he got in the car and I had  
23      asked him why he was sweating so much.

24          Q.    What did he say, to your recollection?

25          A.    I don't remember him answering at all

1 actually. Any time he would answer it was either really  
2 vague or it would be irrelevant to what I asked him.

3 Q. Okay. Fair to say that Mr. Nelson seemed to  
4 be having a hard time answering questions in a way that  
5 you would consider to be adequate?

6 A. Yes. But he was still able to repeat that he  
7 didn't want the ambulance and he wanted -- he asked for  
8 the door to be opened. He wanted to be out.

9 Q. Okay. And did you ask Mr. Nelson about --  
10 about his medications during that conversation?

11 A. Yes.

12 Q. And what do you recall him saying about his  
13 medications?

14 A. He said that he took them the previous day.

15 Q. And then at some point you -- sounds like you  
16 had -- earlier you represented that you had had a  
17 conversation with Officer McKee where he provided you  
18 some additional information about Mr. Nelson. Where in  
19 the sequence did that occur?

20 A. I believe it was at some point on Ironwood  
21 after Mr. Nelson was already in the car. And I believe  
22 it was after I had already completed the evaluation  
23 form.

24 Q. Okay. And that's when, at that point,  
25 Officer McKee provided you information about his

1 personal knowledge about Mr. Nelson, correct?

2 A. Yes. It was either at Ironwood or directly  
3 after we had moved him over to Chabot.

4 Q. Okay. And Officer McKee had at that point let  
5 you know that Mr. Nelson had -- he had previous  
6 knowledge of Mr. Nelson having some sort of narcotic  
7 sales history and being on probation or parole and  
8 having previously thrown a police officer off of a  
9 balcony; is that correct?

10 A. Yes.

11 Q. And at that point Mr. Nelson was in the  
12 backseat of your car and restrained, correct?

13 A. Yes.

14 Q. But you don't recall whether that occurred on  
15 Ironwood or once you guys had gone over to Chabot; is  
16 that correct?

17 A. I don't recall, but I believe it was at  
18 Ironwood.

19 Q. And how long were you guys located at Ironwood  
20 with Mr. Nelson in the backseat of the car prior to the  
21 decision to take Mr. Nelson to Chabot?

22 A. It was about 30 minutes.

23 Q. And during that course of time did Mr. Nelson  
24 make some sort of a reference or a request to you not to  
25 kill him or something to that effect?

1 A. Yes.

2 Q. And how did you respond to Mr. Nelson's making  
3 those comments?

4 A. From what I remember he said, "Don't kill me."  
5 He said it in a very soft voice. I said something like,  
6 "What's going on? Why did you say don't kill me?" And  
7 then I think he said something like, "I don't know. I  
8 was just playing." Or something along those lines.

9 Q. And when you were in the -- when Mr. Nelson's  
10 in the car with you, did he make any further comments  
11 that caused you to believe he was hallucinating? For  
12 example, making references to things or people that  
13 weren't there?

14 A. He kept yelling at one point in the car. He  
15 was -- kept saying, "Petey. Petey." And he was yelling  
16 out. He made a reference -- he would say something  
17 about his uncle. And then when I would ask for  
18 clarification, he wouldn't clarify anything.

19 Q. And at the time when you were in the car with  
20 Mr. Nelson was it just you and Mr. Nelson or was  
21 Officer -- was Officer Shannon in the car as well?

22 A. He was not in the car. He was standing  
23 outside.

24 Q. Okay. And is it fair to say that at that  
25 point you guys were just waiting for the ambulance to

1 arrive?

2 A. Yes.

3 Q. Were there ever any suggestions from any of  
4 the officers on the scene that one of the present  
5 officers just go ahead and drive Mr. Nelson to John  
6 George as opposed to waiting for the ambulance to  
7 arrive?

8 A. I don't remember at all at Ironwood. I  
9 remember later on towards the -- the end when we were  
10 going to put in the wrap.

11 Q. So at some point when you guys were over at  
12 Chabot you recall there being a conversation about one  
13 of the officers providing the transport for Mr. Nelson?

14 A. Yes. I remember Officer Shannon saying let's  
15 get him in the wrap and take him to John George as a  
16 suggestion.

17 Q. And as far as you know was that the plan at  
18 that point? Or was that just still in the -- in the  
19 area of possibilities, just things you guys were  
20 discussing?

21 A. It was in the area of possibility based on  
22 Mr. Nelson's behavior.

23 Q. But at that point there was no decision to --  
24 for one of you guys to transport him, correct?

25 A. Correct.

1 Q. And when you guys were back sitting in front  
2 of Ironwood what was your understanding of what the  
3 delay was for the ambulance arrival?

4 A. When I asked our dispatch, I just recall on a  
5 couple occasions that the ambulance had been diverted.  
6 And I think once was for a shooting or a stabbing in  
7 Oakland.

8 Q. Okay. And at some point there was a decision  
9 made to drive away from the Ironwood address and go to  
10 an alternate location, correct?

11 A. Yes.

12 Q. And how did that decision come about? Was  
13 there a conversation? Did you make the decision? How  
14 did that come about?

15 A. There was a conversation. Officer Shannon and  
16 Officer McKee, I don't remember who. One of the two  
17 officers suggested moving him for a variety of reasons.

18 Q. And if you can recall, what were the reasons  
19 that prompted you guys to want to move Mr. Nelson from  
20 in front of his ex-wife's house?

21 A. One reason being that it seemed like he was  
22 more agitated when he was yelling and looking in the  
23 direction of the house. So we didn't know if he was  
24 agitated being there. We also wanted to get him out of  
25 the street if we were going to have to put him in a

1 wrap. Get him out of a residential neighborhood and get  
2 him in an area where there's better lighting and more  
3 accessible for paramedics to come.

4 Q. And can you explain Ironwood. Is that -- what  
5 type of a street is that? Is that a cul-de-sac? Is  
6 that a through street?

7 A. Ironwood's a court. So where Patsy's house  
8 was located it was at the dead end of the street. Kind  
9 of a T. It was a court, but it was shaped in a T, not a  
10 circular court.

11 Q. Okay. And that area you consider to be a  
12 poorly lit area?

13 A. There was minimal street lighting, but it  
14 wasn't as good of lighting as it was at Chabot.

15 Q. And ultimately who made the decision to -- to  
16 transport Mr. Nelson to Chabot?

17 A. From my recollection it was Officer Shannon.

18 Q. Is it fair to say at that point  
19 Officer Shannon was considered to be your supervisory  
20 officer?

21 A. Yes. On field training he monitors my  
22 decisions.

23 Q. Were there any other factors that played into  
24 the decision to move Mr. Nelson besides the lighting and  
25 him, you believe, being more agitated and that being



1 more accessible to the paramedics at Chabot?

2 A. Well, because Mr. Nelson's behavior was  
3 increasingly agitated and he was kicking my patrol doors  
4 and windows, his behavior was to the point where we were  
5 discussing the use of the wrap or other means of  
6 control. And because of that we would need more space  
7 because additional officers would be needed to put the  
8 wrap on. So an empty parking lot was a better option.

9 Q. Was there any discussion while he was still on  
10 Ironwood of getting him handcuffed?

11 A. I think it was mentioned, but based on his  
12 size and his behavior, we would need more officers to do  
13 it. And just it wasn't a possibility with just the  
14 three of us.

15 Q. Was there any attempt to get -- to ask  
16 Mr. Nelson to comply with being handcuffed while he was  
17 still located in the patrol car?

18 A. We told him several times to stop kicking the  
19 door, stop trying to kick the window. And he would say  
20 okay. And a few seconds later he'd go right back into  
21 kicking. So for our own safety it wasn't -- it wasn't  
22 possible to handcuff him there.

23 Q. Have you ever handcuffed somebody through the  
24 window while they were still located inside of a patrol  
25 car?

1 A. There wouldn't be a way. There's bars in the  
2 way of the -- between the window and the --

3 Q. So during your time with the Hayward Police  
4 Department you've never seen somebody handcuffed while  
5 they were in the car with the window rolled down through  
6 the bars?

7 A. No.

8 Q. And you drove Mr. Nelson away after you guys  
9 left?

10 A. Yes.

11 Q. Mr. Nelson placed in a seatbelt?

12 A. I don't recall.

13 Q. Did you seatbelt Mr. Nelson?

14 A. To my recollection, we didn't. It wasn't safe  
15 for us to open the door. So I don't believe he was --  
16 had a seatbelt on.

17 Q. So when you decided to transport Mr. Nelson in  
18 a moving vehicle he was not restrained in handcuffs nor  
19 was he seatbelted; is that correct?

20 A. From my recollection, he was not seatbelted.

21 Q. Is it your understanding that you are  
22 permitted to transport people in your -- in the backseat  
23 of your patrol car who are not wearing seatbelts or in  
24 handcuffs?

25 A. Repeat that.

1 were just standing there waiting. So there wasn't a  
2 need for a camera.

3 Q. Okay. And is it your understanding that --  
4 that you're not supposed to be operating your -- your  
5 cameras when there's not something actively occurring?

6 A. From my understanding at the time, I believe  
7 our policy didn't indicate that.

8 Q. Do you have a different understanding now?

9 A. Our policy has changed since then.

10 Q. Okay. Do you recall when the policy changed?

11 A. It's changed several times. It's been at  
12 least a few months.

13 Q. Okay. And your best estimate, how long was  
14 your -- the camera off?

15 A. I'd say it was probably only off for a couple  
16 minutes.

17 Q. And at the time you got Mr. Nelson to the  
18 Chabot parking lot did you have any idea or  
19 understanding of what the ETA on the ambulance was at  
20 that point?

21 A. I don't remember the exact time. But I do  
22 remember that they still had an extended wait. And at  
23 some point our dispatch even asked if paramedics were on  
24 scene yet.

25 Q. So from the time that you -- so you arrived at

1 the Chabot parking lot. There's some period of time  
2 where the camera was off. What prompted you to turn the  
3 camera back on?

4 A. I turned the camera back on while I was still  
5 at Ironwood. And that was when Mr. Nelson started  
6 kicking in my car. So I activated it.

7 Q. Okay. What was Mr. Nelson kicking?

8 A. He was kicking the door. He was kicking the  
9 window. And he was trying to kick the rear window where  
10 there was no bars or protective layer between the  
11 subject and the window.

12 Q. And after this incident when Mr. Nelson had  
13 already passed, did you notice any damage to the inside  
14 interior of your vehicle that you attribute to  
15 Mr. Nelson's kicking?

16 A. Say that again.

17 Q. Did you -- after the incident did you find any  
18 damage to the interior of your car that you attributed  
19 to Mr. Nelson's kicking?

20 A. I don't recall if I personally checked after.

21 Q. To your knowledge, did anyone ever check your  
22 patrol vehicle for damage that was attributed to  
23 Mr. Nelson's kicking?

24 A. According to the police report, yes.

25 Q. Okay. And what is your understanding of the

1 type of damage that Mr. Nelson caused by kicking the  
2 backseat of the car -- or excuse me, the back of the  
3 car?

4 A. My recollection, I don't think there was any  
5 significant damage.

6 Q. When you say there was no significant damage,  
7 was there some sort of minimal damage? Was there some  
8 sort of documented damage?

9 A. I think Detective Mosby might have mentioned  
10 scuffs or something along that line. But no mention of  
11 dents or anything.

12 Q. Okay. And was it your understanding that  
13 there was no scuffs in the backseat of your patrol car  
14 prior to Mr. Nelson getting into it?

15 A. I don't check my patrol car for scuffs. I  
16 check it to make sure there's no weapons or contraband  
17 in the backseat.

18 Q. So you personally don't have any knowledge of  
19 any damage that Mr. Nelson caused to the backseat of  
20 your patrol car?

21 A. Correct.

22 Q. And while you were parked at Chabot were you  
23 having -- were you physically still located in the car  
24 with Mr. Nelson or did you get out?

25 A. I got out.

1           A.    I recall just more of an informative training  
2 of just to create awareness around it and what it really  
3 is.

4           Q.    Okay. And but you indicated that you had --  
5 or sorry. Strike that.

6                   During that excited delirium -- was that  
7 specific -- was that training specific to excited  
8 delirium, or was that just a topic that was covered with  
9 other things? Or did you have, like, a class that was  
10 training for excited delirium?

11          A.    I know -- I believe it occurred on a CPT day,  
12 which is a training day that we have monthly. I don't  
13 think the entire day was about excited delirium. But I  
14 believe it was a topic that was covered during that day.

15          Q.    Okay. After the incident or after -- I don't  
16 want to say after the incident. After Mr. Nelson became  
17 unresponsive, at some point in the time after he became  
18 unresponsive, you mentioned that his sweatshirt had  
19 gotten tight and something to the effect of Mr. Nelson  
20 had knocked out. Do you recall saying that?

21          A.    Yes.

22          Q.    Can you explain what you meant by that?

23          A.    I think when I was trying to check for his  
24 pulse Mr. Nelson was obese. And a lot of the -- the fat  
25 was, like, the sweatshirt was bunched up in his fat on

1 his neck.

2 Q. And at the time you thought that might have  
3 contributed to Mr. Nelson being unconscious?

4 A. Well, I thought it was a possibility because  
5 of the positioning.

6 Q. Okay. And at the time when you were  
7 interacting with Mr. Nelson -- well, prior to him --  
8 prior to him becoming unconscious, did you -- did you  
9 notice his sweatshirt becoming, I guess, I don't know  
10 how you would explain it, sort of wrapped up in --  
11 wrapped up in his neck folds or neck meat area?

12 A. I didn't notice it until I was trying to check  
13 for his pulse.

14 Q. Okay. To your knowledge, during the incident,  
15 prior to Mr. Nelson becoming unresponsive, is there  
16 anybody else who would have been positioned in a vantage  
17 point to be able to see Mr. Nelson's neck and his  
18 sweatshirt area?

19 A. Well, I don't think any of the officers that  
20 were down at his legs would be able to at that -- while  
21 they're applying the wrap. I can't speak for  
22 Officer Shannon. I don't know what his view was.

23 Q. Okay. But to your knowledge he sort of was  
24 facing the opposite of you, facing sort of away from  
25 Mr. Nelson's head, neck area?

1 STATE OF CALIFORNIA )  
2 ) ss.  
3 COUNTY OF ALAMEDA )  
4

5 I hereby certify that the witness, OFFICER  
6 MICHELLE HALL, in the foregoing deposition appeared  
7 before me, Kelly McKissack, a Certified Shorthand  
8 Reporter and a disinterested person.

9 Said witness was then and there at the time  
10 and place previously stated by me placed under oath to  
11 tell the truth, the whole truth and nothing but the  
12 truth in the testimony given on the date of the within  
13 deposition; that the deposition is a true record of the  
14 witness' testimony as reported by me.

15 The testimony of the witness and all questions  
16 and remarks requested by Counsel was reported under my  
17 direction and control, caused to be transcribed into  
18 typewritten form by means of Computer-Aided  
19 Transcription.

20 I am a Certified Shorthand Reporter licensed  
21 by the State of California, and I further certify that I  
22 am not interested in the outcome of the said action, nor  
23 connected with, nor related to any of the parties in  
24 said action, nor to their respective counsel. I am not  
25 of counsel or attorney for either or any of the parties  
to the case named in the within caption.

IN WITNESS WHEREOF, I have hereunto affixed my  
signature this 18th day of December, 2017.

\_\_\_\_/Kelly McKissack\_\_\_\_\_

Kelly McKissack  
Certified Shorthand Reporter  
California License No. 13430

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